

EXHIBIT H

Transcript of Taz Burch Rebuttal Testimony, March 7, 2005, Civil Service Board Hearing, Pages 43-54.

1 rebuttal.

2 THE COURT: You're still under oath.

3 TAZ DAY BURCH

4 the grievant, recalled on his own behalf, having
5 been previously duly sworn by the Judge, was examined
6 and testified further as follows:

7 DIRECT EXAMINATION

8 BY MR. PIAZZA:

9 Q. Taz, how did you break your -- was your
10 thumb broken?

11 A. Fractured.

12 Q. How did you fracture your thumb?

13 A. Well, I nearly fell trying to catch myself
14 on the kitchen sink, like that (indicating), and it
15 fractured this joint here. And I done it like on Friday
16 or Saturday before this other mess happened, and it got
17 to hurting me so I got Patty to take me to Winfield, and
18 I have copies of it.

19 Q. Why did you tell the 911 dispatcher that she
20 broke your thumb?

21 A. I couldn't tell you how that got on there
22 but she didn't break my thumb.

23 Q. But you heard your --

24 A. I heard it on that tape, but like I said,
25 she didn't break my thumb. I hurt my thumb.

1 Q. Did you hear yourself on the tape?

2 A. I went to -- yes.

3 Q. Was that your voice?

4 A. Yes.

5 Q. Do you recall saying that?

6 A. I didn't do good in school. I stayed two or
7 three years in the same class. I had problems. I
8 didn't even know they drew a check on me. I had to quit
9 and go to work when I was 16. I had problems all the
10 time, but I used to go play with him and stuff but --

11 Q. It's just something that you said that you
12 regret saying?

13 A. Yes. I said two things in there that I --
14 I don't know. I can't even remember saying them.

15 Q. Was it one that said you were going to beat
16 her up?

17 A. No, I wouldn't hurt her.

18 Q. Have you ever laid a hand on her?

19 A. Never have and never will.

20 Q. And the other thing was that --

21 A. Probably just running my mouth. That's all.
22 I don't remember what all I said.

23 MR. PIAZZA: That's all I have.

24

25

CROSS-EXAMINATION

BY MR. WILLFORD:

Q. Mr. Burch, didn't you tell this panel when you testified before that you broke your thumb on a water heater?

A. Well, hot water heater went out. The fuse blowed to it, but it didn't happen -- I thought that might be what had happened, but I've got a step up about this high, had on the little kitchen floor where I had to have overlaid and you would stumble if you ain't careful.

Q. So now it's your testimony that you fell, and that's how you broke it?

A. Well, I was having hot water heater troubles. The hot element went out on it and couldn't seem to do nothing to fix it and I might have banged it in there, but I did stumble over the kitchen and my thumb went like that pretty hard, but this happened like a Friday, back up on the 16th. It happened like a Friday and I got Patsy to take me to Winfield on the 15th, that Sunday, and he put a little splint on it and gauze, wrapped where I could take it off and on.

Q. Well, I'm not asking you about what they did to fix it. I'm just confused here. I'm trying to figure out did you break it on a water heater or did you

1 break it when you fell?

2 A. Well, like I say, I was having hot water
3 heater troubles, and I -- where that element goes at,
4 the hot water heater element that goes in there, and I'm
5 trying to get -- I had a chance to go one side or the
6 other. I was afraid to mess with it. I called my
7 brother and told him about it, and he said, "Well, don't
8 mess with it."

9 Q. Mr. Burch, do you understand my question?

10 A. When I came back into the living room, I was
11 going to the kitchen to get me a -- I can't remember
12 what I was going in the kitchen for, but my toe got hung
13 on that step up about that high and then I fell, so I
14 tried to catch myself and I don't --

15 Q. Stop.

16 (Short interruption.)

17 THE COURT: Mr. Burch, just listen to
18 his question and just answer the best you can.

19 A. All right.

20 Q. I think I understand it now. You did break
21 it when you fell; is that right?

22 A. I don't know if I hurt it trying to mess
23 around with the hot water heater. I ain't for sure if
24 it was there or I tripped and fell and tried to catch
25 myself. I hurt my thumb. Patsy did not hurt my thumb.

1 Q. Okay.

2 A. That's on that tape. I don't know how it
3 got on there.

4 Q. Well, did you say it or didn't you?

5 A. If I did, I don't know what I said, because
6 like I said, I took my medicine, go to sleep, and I know
7 I didn't have but beers left in the frig because it was
8 Sunday. You don't get no more till Monday till the
9 store -- but I had four beers in the refrigerator for
10 Sunday, and I took my medicine. I drank them four
11 beers, and I left Gene's house about 10:00 o'clock. I
12 got home and drank them four beers and took my medicine,
13 and it hit me and I wasn't completely right upstairs
14 when I did make the phone call to 911, but my wife has
15 never hit me and she didn't break my finger. Between the
16 hot water heater and me tripping and falling -- I nearly
17 fell. I tried to catch myself. I hurt my own thumb,
18 but wasn't nothing matter with my middle finger here. I
19 mean, there wasn't nothing wrong with
20 it.

21 Q. That's not what I'm asking about right now.
22 Do you remember telling this panel before that you
23 didn't threaten your wife that night?

24 A. Like I say, I took my medicine first and
25 then I drank those four beers on top of it. You could

1 tell I wasn't -- when I got hurt in '91, I had a speech
2 problem because I nearly bled to death and they said I
3 had a little brain damage to go with it. I bled to
4 death, I went through a bunch of -- I don't know what
5 all I went through, but they said I could have slight
6 brain damage and some slur speech and stuff.

7 Q. Does that affect your memory?

8 A. It has affect. I can remember some things
9 and some things I can't remember.

10 Q. Do you ever remember things that never
11 happened?

12 A. I can remember everything that happened. I
13 can pretty well go back all the way, you know, about 90
14 percent on everything since -- I do have these memory
15 lapse sorts of like -- like I can't remember right now
16 but will come to me after while sometimes.

17 Q. Do you remember also telling this panel that
18 you didn't take your medication that night?

19 A. I don't know if I told them I took my
20 medication, but I took my medication.

21 Q. It's your recollection now that you took
22 your medication?

23 A. Medication.

24 Q. Along with the beer that you drank that
25 night?

1 A. Because my nerves was messed up all over
2 this business here, and I figured it would help me
3 sleep.

4 Q. But this business here hadn't happened yet.

5 A. I mean from the Carbon Hill business, all
6 the trouble of getting run out of town.

7 Q. Did you drink beer that night?

8 A. I drank four. That was all that was in the
9 refrigerator.

10 Q. You drank four beers?

11 A. Yes.

12 Q. You took your medication?

13 A. I did.

14 Q. That night?

15 A. And it started affecting me, and I actually
16 shouldn't have called 911 at all.

17 MR. WILLFORD: Okay. I have no further
18 questions.

19 REDIRECT EXAMINATION

20 BY MR. PIAZZA:

21 Q. Your recollection is pretty clear about what
22 happened to you that night?

23 A. I can remember everything that was happening
24 to me that night. I mean, I couldn't see it but I could
25 remember it.

1 Q. And you didn't threaten your wife that
2 night?

3 A. She asked me if someone was on the phone. I
4 wouldn't hurt her for nothing in the world.

5 Q. Prior to your getting on the phone, you
6 didn't threaten her?

7 A. Well, just goofing off. Well, what do you
8 call it --

9 Q. Did you threaten her or did you threaten to
10 hurt her or harm her or anything like that, Taz, do you
11 recall?

12 A. I just wanted her to stay up with me a
13 little bit longer and she wanted to go to bed. I said,
14 "You going, I'm going too." And I took my medicine and
15 I drank about four beers.

16 Q. Do you regret making that 911 call?

17 A. Yes. I should have not ever called. I
18 wasn't in my right mind calling. I didn't need them. I
19 didn't need an officer. We wasn't fussing at each
20 other. I just said, if she's going to bed, I'm going to
21 bed too. I took my medicine with beer, and beer and
22 medicine and went to bed. I don't know why I called 911
23 but I did, because I had -- I been having problems for a
24 long time.

25 MR. PIAZZA: That's all.

1 THE COURT: I believe that's all. You
2 can come down.

3 MR. PIAZZA: I need to ask him one more
4 question.

5 Q. Mr. Burch, when you were being booked, do
6 you recall being asked a series of questions?

7 A. Yes, sir.

8 Q. Were you responsive to those questions?

9 A. I thought I had a right to remain silent so
10 I was remaining silent.

11 Q. Did you respond to any of the questions?

12 A. I think I responded to, you know, a few.

13 Q. A few of them?

14 A. Uh-huh.

15 Q. Do you recall responding to a question: "Do
16 you have any other medical problems we should know
17 about?"

18 A. Well, I told -- I think the nurse came by.

19 Q. Just answer the question. Do you recall
20 telling them about any other medical problem you had
21 when you were being booked?

22 A. My index finger was swollen up real big.
23 They thought it -- it was swollen up real big and my
24 elbows was busted, bruises all over it and on my back
25 and my hips.

1 Q. But you specifically mentioned your finger?

2 A. Yes. I asked him would they not -- could
3 they take me to the emergency room, and I didn't get no
4 medical attention. My brother Gene, he called down
5 there trying to get somebody that worked down there to
6 have --

7 Q. Specifically --

8 A. -- John Mark call him back, because he heard
9 that --

10 Q. Specifically when you were being booked, you
11 told them about your finger, your middle finger?

12 A. When they came by, I was hurting and in
13 pain, hurting like in terrible pain, busted elbow. Had
14 to have fluid drained --

15 MR. PIAZZA: That's enough. I would
16 like to enter these into the record if they're not
17 already entered. This is the -- and you can tell me if
18 they're in or not. I believe they are. This is all the
19 jail records, but specifically I would like this one
20 perhaps reentered if it's not already entered. It's the
21 booking questionnaire, which indicates and it's
22 handwritten in that a finger appears to be blue and
23 swollen and finger appears to be broken.

24 THE COURT: Is this something that came in
25 response to some of the subpoenas?

1 MR. PIAZZA: Yes, sir.
2 THE COURT: Any objection to this?
3 MR. WILLFORD: No.
4 THE COURT: Mr. Willford, anything else?
5 MR. WILLFORD: No, sir.
6 THE COURT: These will go in without
7 objection.
8 What's your pleasure about a short
9 closing?
10 MR. PIAZZA: I'm not sure if the panel
11 wants to hear a closing. They've probably have heard
12 enough.
13 MR. WILLFORD: I think they have probably
14 heard enough.
15 THE COURT: All right. With that then
16 we will conclude.
17 Anything for the Board? Anybody got a
18 question?
19 MR. WILLFORD: The tape needs to be entered
20 as well.
21 THE COURT: Okay. Any objection to
22 that?
23 MR. PIAZZA: No objection.
24 THE COURT: The hearing is concluded.
25

C E R T I F I C A T E

STATE OF ALABAMA)

WALKER COUNTY)

I hereby certify that the above and foregoing proceeding was taken down by me by stenographic means, and that the questions and answers therein were produced in transcript form by computer aid, and that the foregoing represents a true and correct transcript of the proceedings occurring on said date.

I further certify that I am not of counsel, nor related to any of the parties to this action; nor am I in anywise interested in the result of said cause.



RHONDA G. WOODS

Notary Public, State of Alabama at Large

My commission expires December 21, 2008.